## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO EASTERN DIVISION

United States of America, :

Plaintiff, :

v. : Case No. 2:12-cr-130(1)

: JUDGE JAMES L. GRAHAM

Matthew Ryan Byrd, Magistrate Judge Kemp

Defendant. :

## ORDER

The Court held a revocation hearing on December 17, 2012. Defendant stipulated to certain violations of his conditions of release. Following the taking of testimony, the Court revoked the order setting conditions of release and ordered the defendant detained pending sentencing. This order explains why.

The Court has had significant contact with Mr. Byrd since this case began. In a prior order dated August 28, 2012, the Court revoked release but ordered Mr. Byrd re-released once a drug treatment placement became available. Mr. Byrd did successfully complete a program, but since doing so has had issues with continuing counseling and appearing for random drug screens. He has also had problems communicating with his Pretrial Services Officer about missing screens and about needing to reschedule his counseling. He missed some drug screens without providing any valid excuse.

There were two reasons for revoking the order setting conditions of release. First, the Court found that given the history of violations, it is not likely that Mr. Byrd would comply with future conditions, which is grounds for revocation under 18 U.S.C. §3148(b). Second, once a defendant is found guilty of the drug offense to which Mr. Byrd has pleaded guilty -

and that finding was made by Judge Graham on October 18, 2012 - revocation is mandatory under §3143(a)(2) unless certain conditions are satisfied, and those conditions (which include a recommendation from the government that no prison time be imposed) are not present here. Given these findings, the Court had no choice but to revoke release.

The defendant is advised of his right to seek review of this order by a United States District Judge pursuant to 18 U.S.C. §3145(b).

/s/ Terence P. Kemp
United States Magistrate Judge